

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KATHRYN TOWNSEND GRIFFIN, HELEN
MCDONALD, and THE ESTATE OF CHERRIGALE
TOWNSEND,

Plaintiffs,

-against-

EDWARD CHRISTOPHER SHEERAN, p/k/a ED
SHEERAN, ATLANTIC RECORDING
CORPORATION, d/b/a ATLANTIC RECORDS,
SONY/ATV MUSIC PUBLISHING, LLC, and
WARNER MUSIC GROUP CORPORATION, d/b/a
ASYLUM RECORDS

Defendants.

ECF CASE

17-cv-5221 (RJS)

**DECLARATION OF
ILENE S. FARKAS**

I, Ilene S. Farkas, declare as follows:

1. I am a member of Pryor Cashman LLP, counsel for defendants Edward Christopher Sheeran (“Sheeran”), Atlantic Recording Corporation d/b/a Atlantic Records (“Atlantic”) and Sony/ATV Music Publishing LLC (“SATV,” together with Sheeran and Atlantic, the “Defendants”). I have personal knowledge of, and am fully familiar with, the facts set forth in this Declaration. I respectfully submit this Declaration in support of Defendants’ motion for summary judgment, seeking to dismiss the Complaint of the Plaintiffs, and to put before the Court certain documents and materials which are referenced in the accompanying papers.

2. Undefined capitalized terms have the meanings given to them in the accompanying Rule 56.1 Statement of Undisputed Facts.

3. Annexed hereto as **Exhibit 1** is a true and correct copy of the Complaint.

4. Annexed hereto as **Exhibit 2** is a true and correct copy of the Answer of Sheeran, Atlantic and SATV.

5. Annexed hereto as **Exhibit 3** is a true and correct copy of the expert musicologist report of Dr. Lawrence Ferrara dated January 12, 2018, along with Appendix 1 to the report.

6. Annexed hereto as **Exhibit 4** are true and correct copies of the Visual Exhibits annexed to the expert musicologist report of Dr. Lawrence Ferrara dated January 12, 2018.

7. Annexed hereto as **Exhibit 5** is a true and correct copy of the Audio Exhibit, with Tracks 1 through Track 6, annexed to the expert musicologist report of Dr. Lawrence Ferrara dated January 12, 2018.

8. Annexed hereto as **Exhibit 6** is a true and correct copy of the expert musicologist report of Dr. Alexander Stewart dated December 8, 2017.

9. Annexed hereto as **Exhibit 7** are true and correct excerpts of the deposition transcript of Dr. Alexander Stewart.¹

10. Annexed hereto as **Exhibit 8** is a true and correct copy of Dr. Stewart's transcription of TOL, which he provided during expert discovery in response to requests made by Defendants.

11. Annexed hereto as **Exhibit 9** are true and correct excerpts of the deposition transcript of defendant Edward Christopher Sheeran.

12. Annexed hereto as **Exhibit 10** are true and correct excerpts of the deposition transcript of plaintiff Helen McDonald.

13. Annexed hereto as **Exhibit 11** are true and correct excerpts of the deposition transcript of plaintiff Kathryn Townsend Griffin.²

¹ Plaintiffs waived their right to depose Dr. Ferrara.

² Kathryn stated at her deposition that she could provide a copy of her birth certificate. No copy of her birth certificate has been provided despite Defendants' requests.

14. Annexed hereto as Exhibit 12 are true and correct excerpts of "Plaintiffs' Responses To Defendants' First Request For Production Addressed To Plaintiffs By Defendants Edward Christopher Sheeran, Atlantic Recording Corporation And Sony/ATV Music Publishing LLC." This Exhibit includes Plaintiffs' production in response to Request Nos. 10 and 11, which provides the Copyright Application and the Copyright Registration for the LGO Composition, which, in turn, includes the LGO Deposit Copy (as each of those terms is defined in the accompanying Rule 56.1 Statement of Undisputed Facts).

15. Annexed hereto as Exhibit 13 is a true and correct copy of the LGO Deposit Copy, which I caused to be procured from the U.S. Copyright Office. This Exhibit corresponds with the LGO Deposit Copy included within Exhibit 12, but this Exhibit is in color and more legible than the copy included within Exhibit 12.

16. Annexed hereto as Exhibit 14 are true and correct excerpts of (1) *Marvin Gaye, My Brother*, a book authored by Frankie Gaye, (2) *Mercy, Mercy Me, The Art, Loves and Demons of Marvin Gaye*, a book authored by Michael Eric Dyson, and (3) a true and correct screenshot from www.discogs.com.

17. Annexed hereto as Exhibit 15 are true and correct excerpts of documents publicly filed with the California Probate Court.

18. Annexed hereto as Exhibit 16 are true and correct excerpts of the Transcript of Proceedings of the Pre-Motion Conference dated June 29, 2018.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: July 27, 2018



ILENE S. FARKAS